

Appl. No. 09/611,772

Amdt. Dated January 9, 2004

Reply to final Office Action of October 9, 2003

REMARKS

Reconsideration of the application is requested.

Applicant acknowledges the Examiner's confirmation of receipt of applicant's certified copy of the priority document for the German Patent Application 199 31 236.2, filed July 7, 1999 supporting the claim for priority under 35 U.S.C. § 119.

Claims 1-32 are in the application. Claims 1, 3, 13, and 32 have been amended.

In item 1 on page 2 of the above-identified final Office Action, claims 1-14, 21-22, 27-28, and 30-32 have been rejected as being obvious over U.S. Patent No. 6,339,697 to Ranta (hereinafter '**697**') in view of U.S. Patent No. 6,496,543 to Zehavi (hereinafter '**543**') under 35 U.S.C. § 103(a).

In item 2 on page 7 of the above-identified final Office Action, claims 15-20 have been rejected as being obvious over '**697**' in view of '**543**' and further in view of U.S. Patent No. 6,473,399 to Johansson, et al. (hereinafter '**399**') and U.S. Patent No. 6,359,877 to Rathonyi, et al. (hereinafter '**877**') under 35 U.S.C. § 103(a).

In item 3 on page 8 of the above-identified final Office Action, claims 23-26 have been rejected as being obvious over

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'697 in view of '543 and further in view of U.S. Patent No. 6,339,705 to Pehrson (hereinafter '705) under 35 U.S.C. § 103(a).

The rejections have been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. Support for the changes is found on pages 13-20, and 23 of the specification of the instant application. No new matter is believed to have been added.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a method for allocating a transmission capacity to connections in a radio communication system including:

allocating a transmission rate to a connection between a base transceiver station and a subscriber station in dependence on a connection-specific path loss, and

allocating the transmission rate to the connection in dependence on an interference situation at the location of the subscriber station.

The '697 reference discloses defining a measured network interference load that is used to set various transmission

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parameters at a base station for a digital mobile communication system. The network interference load is explicitly defined as "the level of interference **measured at the base stations**" (Col. 4, line 10). This position is further supported by the explicit language in '697 found in Col. 5 starting at line 10, which states, "In this embodiment network interference load is defined on the basis of interference level measured **at each base station** BTS (block 21)."

In contrast to '697, the present invention uses the interference situation **at the location of the subscriber station**. Since the interferences at the location of the base station usually have another value than at the location of the subscriber station, they should not be considered comparable. Moreover, it would not be obvious to one of skill in the art to use the interference situation at the location of the subscriber station to find the network interference load as required by '697, since a general interference level can not be inferred from a single subscriber station. Therefore '697 must use interferences at the base station and cannot provide the foundation relied upon by the final Office Action to make the rejection of claim 1 in the instant application.

Clearly, '697 does not show "**allocating the transmission rate in dependence on an interference situation at a location of**

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the subscriber station" as recited in claim 1 of the instant application. Nor does '697 teach or suggest a base transceiver station having a radio connection with "an allocated transmission rate based on the given path loss and **the interference situation at the location of the subscriber station"** as recited in claim 32. In fact, '697 **explicitly teaches away** from using the interference situation **at the subscriber station location**.

None of the secondary '543, '399, '877, or '705 references make up for the deficiencies of '697. For example, '543 primarily selects transmission parameters to subscriber stations "based on the distance between the subscriber station and the base station" (e.g., Col. 5, lines 11-14). Contrary to the instant application, where the **interference situation** is determined **at the subscriber station location** as recited in claims 1 and 32.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1 or claim 32. Claims 1 and 32 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

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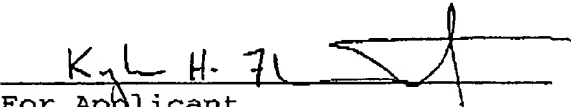
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In view of the foregoing, reconsideration and allowance of claims 1-32 are solicited.

In the event the Examiner should still find any of the remaining claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out. In the alternative, the entry of the amendment is requested, as it is believed to place the application in better condition for appeal, without requiring extension of the field of search.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner and Greenberg, P.A., No. 12-1099.

Respectfully submitted,


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